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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend title 5, United States Code, to establish a special limitation on
pay for wildland fire responders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title 5, United States Code, to establish a special
limitation on pay for wildland fire responders, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildland Firefighter
5 Fair Pay Act”.

1 **SEC. 2. SPECIAL LIMITATIONS ON PAY FOR WILDLAND FIRE**
2 **RESPONDERS.**

3 (a) IN GENERAL.—Subchapter V of chapter 55 of
4 title 5, United States Code, is amended—

5 (1) in section 5541(2)(xi), by inserting “,
6 5547a(h),” after “section 5544”; and

7 (2) by inserting after section 5547 the fol-
8 lowing:

9 **“§ 5547a. Special limitations on premium pay for em-**
10 **ployees engaged in wildland firefighting**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘covered employee’ means an em-
13 ployee of the Forest Service, the Department of the
14 Interior, or the National Weather Service who—

15 “(A) is a wildland firefighter;

16 “(B) is an incident meteorologist accom-
17 panying a crew of wildland firefighters;

18 “(C) is serving on an incident management
19 team or at a wildland fire operations center; or

20 “(D) is otherwise certified by the applica-
21 ble agency to perform wildland fire incident re-
22 lated duties during the period that employee is
23 assigned to a qualifying incident;

24 “(2) the term ‘covered services’ means services
25 performed by an employee that are determined by
26 the Secretary of the Interior, the Secretary of Agri-

1 culture, or the Secretary of Commerce, as applicable,
2 to primarily involve emergency wildfire suppression
3 activities;

4 “(3) the term ‘emergency wildland fire suppres-
5 sion activities’—

6 “(A) means initial-response and extended-
7 response activities that directly relate to sup-
8 pression of a wildfire;

9 “(B) includes activities associated with a
10 severity incident; and

11 “(C) does not include activities associated
12 with a prescribed fire incident;

13 “(4) the term ‘firefighter’ means an employee
14 who—

15 “(A) is a firefighter within the meaning of
16 section 8331(21) or section 8401(14);

17 “(B) in the case of an employee who holds
18 a supervisory or administrative position and is
19 subject to subchapter III of chapter 83, but
20 who does not qualify to be considered a fire-
21 fighter within the meaning of section 8331(21),
22 would otherwise qualify if the employee had
23 transferred directly to that position after serv-
24 ing as a firefighter within the meaning of that
25 section;

1 “(C) in the case of an employee who holds
2 a supervisory or administrative position and is
3 subject to chapter 84, but who does not qualify
4 to be considered a firefighter within the mean-
5 ing of section 8401(14), would otherwise qualify
6 if the employee had transferred directly to that
7 position after performing duties described in
8 section 8401(14)(A) for at least 3 years; or

9 “(D) in the case of an employee who is not
10 subject to subchapter III of chapter 83 or chap-
11 ter 84, holds a position that the Office of Per-
12 sonnel Management determines would satisfy
13 subparagraph (A), (B), or (C) if the employee
14 were subject to subchapter III of chapter 83 or
15 chapter 84;

16 “(5) the term ‘prescribed fire incident’ means a
17 wildland fire originating from a planned ignition in
18 accordance with applicable laws, policies, and regula-
19 tions to meet specific objectives;

20 “(6) the term ‘premium pay’ means the pre-
21 mium pay paid under the provisions of law cited in
22 section 5547(a), except as otherwise provided in sub-
23 section (g);

24 “(7) the term ‘qualifying incident’—

1 “(A) means a wildfire incident, a pre-
2 scribed fire incident, or a severity incident; and

3 “(B) does not include an initial response
4 incident involving a single operational period of
5 less than 36 hours (unless a longer period is
6 approved by an authorized agency due to excep-
7 tional circumstances) if the applicable employee
8 is in continual work status with no designated
9 sleep and rest period established by the agency;

10 “(8) the term ‘severity incident’ means an inci-
11 dent in which a covered employee is pre-positioned
12 in an area where conditions indicate there is a high
13 risk of wildfires;

14 “(9) the term ‘wildfire incident’—

15 “(A) means a wildland fire originating
16 from an unplanned ignition, such as lightning,
17 volcanos, or a human-caused fire; and

18 “(B) includes a prescribed fire that is de-
19 clared to be a wildfire; and

20 “(10) the term ‘wildland firefighter’ means a
21 firefighter—

22 “(A) who is employed by the Forest Serv-
23 ice or the Department of the Interior; and

24 “(B) the duties of the position of whom
25 primarily relate to fires occurring in forest

1 lands, range lands, or other wildlands, as op-
2 posed to structural fires.

3 “(b) TREATMENT OF PREMIUM PAY.—Any premium
4 pay earned by a covered employee for covered services
5 shall be disregarded in calculating the aggregate of the
6 basic pay and premium pay of the covered employee for
7 purposes of applying a limitation under section 5547.

8 “(c) TREATMENT OF DISREGARDED PREMIUM
9 PAY.—Any premium pay that is disregarded under sub-
10 section (b) shall be disregarded in calculating the aggre-
11 gate pay of the applicable covered employee for purposes
12 of applying the limitation in section 5307.

13 “(d) LIMITATION.—

14 “(1) IN GENERAL.—Pay that is disregarded
15 under subsection (b) may not be paid to the extent
16 that such pay would cause the aggregate of the basic
17 pay, premium pay, and hazard pay of the applicable
18 covered employee under section 5545(d) payable in
19 the applicable calendar year to exceed the rate of
20 basic pay payable for a position at level II of the Ex-
21 ecutive Schedule under section 5313, as in effect at
22 the end of that calendar year.

23 “(2) BIWEEKLY LIMITATION.—For the pur-
24 poses of paragraph (1), any premium pay that is
25 subject to a biweekly limitation under section

1 5547(c) shall be paid first before other premium pay
2 in applying the level II limitation.

3 “(e) RELATIONSHIP TO LUMP-SUM PAYMENT.—Any
4 additional pay resulting from application of this section
5 may not be used in computing a lump-sum payment for
6 accumulated and accrued annual leave under section 5551
7 or 5552.

8 “(f) RECORDS.—The Secretary of the Interior, the
9 Secretary of Agriculture, and the Secretary of Commerce
10 shall each maintain records that document uses of the au-
11 thority provided under this section.

12 “(g) LIMITATION FOR PREVAILING RATE EMPLOY-
13 EES.—

14 “(1) DEFINITIONS.—In this subsection—

15 “(A) the term ‘basic pay’ means wages, en-
16 vironmental differential pay, and night shift dif-
17 ferential pay; and

18 “(B) the term ‘premium pay’ means over-
19 time pay, Sunday premium pay, and holiday
20 premium pay.

21 “(2) LIMITATION.—For a prevailing rate em-
22 ployee described in section 5342(a)(2)(A) who is a
23 covered employee, premium pay may not be paid to
24 the extent that payment would cause the aggregate
25 of the basic pay and premium pay of the covered

1 employee in the applicable calendar year to exceed
2 the rate of basic pay payable for a position at level
3 II of the Executive Schedule under section 5313, as
4 in effect at the end of that calendar year.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for chapter 55 of title 5, United States Code, is amended
7 by inserting after the item for section 5547 the following:

“5547a. Special limitations on premium pay for employees engaged in wildland
firefighting.”.

8 (c) DISREGARDING OF PREMIUM PAY FOR CERTAIN
9 PURPOSES.—For the purpose of applying section 5547 of
10 title 5, United States Code, as carried out pursuant to
11 the requirements of section 1701 of division B of the Ex-
12 tending Government Funding and Delivering Emergency
13 Assistance Act (5 U.S.C. 5547 note) (as amended by sec-
14 tion 601 of title VI of division HH of the Consolidated
15 Appropriations Act, 2022 and section 440 of title IV of
16 division G of the Consolidated Appropriations Act, 2023),
17 in calendar year 2023, incident standby premium pay shall
18 be included in premium pay that is subject to the limits
19 established pursuant to those requirements, as so amend-
20 ed.

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 subsection (a) and (b) shall take effect on the first

1 day of the first pay period that has a payment date
2 in January 2024.

3 (2) DISREGARDING OF PREMIUM PAY.—Sub-
4 section (c) shall take effect on the first day of the
5 first applicable pay period beginning on or after Oc-
6 tober 1, 2023.

7 (e) REPORTS ON HIRING WILDLAND FIREFIGHTERS
8 AND INCIDENT METEOROLOGISTS.—

9 (1) DEFINITIONS.—In this subsection:

10 (A) RELEVANT CONGRESSIONAL COMMIT-
11 TEES DEFINED.—The term “relevant congres-
12 sional committees” means—

13 (i) the Committee on Homeland Secu-
14 rity and Governmental Affairs of the Sen-
15 ate;

16 (ii) the Committee on Oversight and
17 Reform of the House of Representatives;

18 (iii) the Committee on Appropriations
19 of the Senate; and

20 (iv) the Committee on Appropriations
21 of the House of Representatives.

22 (B) SECRETARY CONCERNED.—The term
23 “Secretary concerned” means—

24 (i) the Secretary of Agriculture;

25 (ii) the Secretary of the Interior; and

1 (iii) the Secretary of Commerce.

2 (2) REPORTS REQUIRED.—Not later than
3 March 30, 2024, each Secretary concerned, in con-
4 sultation with the Director of the Office of Manage-
5 ment and Budget and the Director of the Office of
6 Personnel Management, shall submit to the relevant
7 congressional committees a plan that addresses the
8 needs of the Department of Agriculture, the Depart-
9 ment of the Interior, or the National Weather Serv-
10 ice, as applicable, to hire and train additional
11 wildland firefighters or incident meteorologists (as
12 those terms are defined in section 5547a of title 5,
13 United States Code, as added by subsection (a))
14 such that sufficient personnel resources are available
15 throughout the year without causing those wildland
16 firefighters or incident meteorologists to receive com-
17 pensation, in a typical calendar year, in excess of the
18 annual rate for level IV of the Executive Schedule
19 under section 5315 of title 5, United States Code.